

# BRIEFING: PUBLIC PROCUREMENT TO PREVENT HUMAN TRAFFICKING AND FORCED LABOUR

The UK Modern Slavery Act 2015 currently does not require public agencies to submit a slavery and human trafficking statement and the UK Government does not legally exclude companies with a history of serious labour rights abuses from public tenders.

In recent FLEX research, companies, trade unions and other experts described these as serious shortcomings of the Modern Slavery Act. The UK Government has a unique opportunity to show leadership on modern slavery prevention and should look to international good practice examples when determining the steps to ensure that workers in public supply chains are not exploited.

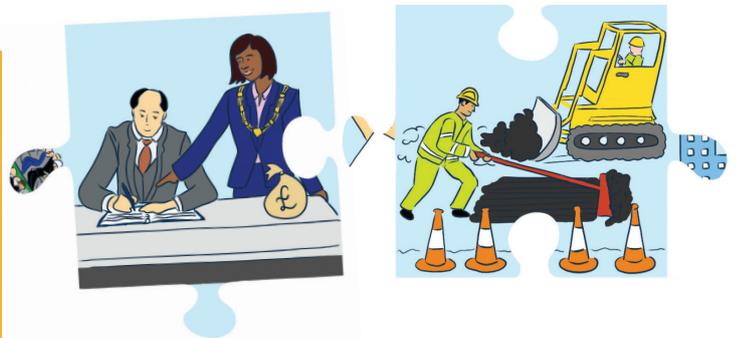
## RECOMMENDATIONS TO THE UK GOVERNMENT:

**1. AMEND** the UK Modern Slavery Act 2015 to bring public authorities under the scope of section 54 of the UK Modern Slavery Act and exclude companies that have not prepared a slavery and human trafficking statement from public tenders.

**2. INTRODUCE** a legal obligation for public agencies to:

- Consider labour standards in their buying decisions;
- Exclude suppliers found to be responsible for human and labour rights abuses;
- Exclude suppliers found to engage in practices that relate to modern slavery;
- Exclude suppliers that have not undertaken appropriate and effective human and labour rights due diligence.

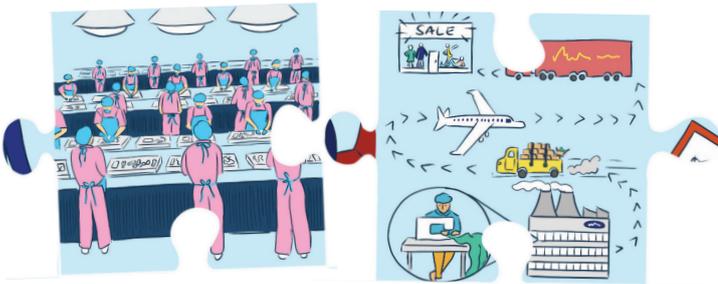
**3. ENABLE** public agencies to incentivise suppliers that engage in best practice initiatives, a list of which could be developed and edited through regular consultation with trade unions, civil society, academics and business.



## Leading the way on modern slavery prevention

Governments have considerable buying power and should lead the way when calling for corporate accountability to prevent human trafficking and forced labour. The UK Government spends more than £200 billion, about a third of its budget, on goods and services. This buying power represents an opportunity to incentivise better corporate accountability and show leadership in the fight against human trafficking and forced labour in global supply chains.

Stakeholders interviewed for FLEX's recently published corporate accountability blueprint<sup>1</sup> flagged the limitations of current UK public procurement policies as a serious shortcoming of the Government's efforts to prevent modern slavery. The UK Government's current failure to act to prevent exploitation in their own supply chains is a missed opportunity.



## Current UK public procurement

Public agencies are currently not required to report on their supply chains under the UK Modern Slavery Act 2015. While many companies supplying to the UK Government meet the turnover threshold requiring them to report, recent research found that of the top 100 government suppliers, 40 percent were noncompliant with the requirements of the Act.<sup>2</sup> Under current legislation, non-compliant companies are still able to tender for government contracts. There is also no legislative requirement to exclude suppliers who have a history of labour rights abuses from public tenders.

The extent to which labour standards are considered in the UK Government's buying decisions is a matter of policy only, rather than legislation, and leaves decisions to exclude public contractors at the discretion of each public agency.

In an attempt to address these shortcomings of the current UK modern slavery response, Baroness Young of Hornsey OBE has proposed the 'Modern Slavery (Transparency in Supply Chains) Bill 2017-19'. The Bill seeks to bring public agencies under the scope of section 54 of the UK Modern Slavery Act<sup>3</sup> and requires companies that have not prepared a slavery and human trafficking statement to be excluded from public tenders. The Bill's chance of entering into law is slim due to a tight deadline at the end of Parliamentary Session in spring 2019.

## What should be done?

In 2017, the UK Houses of Parliament Joint Committee on Human Rights recommended that all companies that are responsible for human rights abuses, or companies that have not undertaken appropriate and effective human rights due

diligence, should be excluded from public contracts. In addition, to increase compliance with the UK Modern Slavery Act 2015, companies that fail to submit a slavery and human trafficking statement should be excluded from public tenders. Public agencies should have a legal obligation to consider labour standards in their purchasing decisions and to exclude contractors that lack the capacity to protect labour rights in their supply chain.

In addition to excluding companies that breach the law and fail to protect workers' in their supply chain, the UK Government should use their buying power to incentivise companies' best practice. The Government should for example explore the possibility of incentivising suppliers' participation in global agreements that impose binding obligations on companies, such as the Bangladesh Accord on Fire and Building Safety.

## Good practice examples:

**IN THE USA**, federal contractors are prohibited from engaging in practices that relate or may lead to human trafficking, including confiscating immigration documents or charging recruitment fees. Companies that act in breach of their contract are subject to serious penalties, including termination of contract, fines and imprisonment.

**IN WALES**, the Government's Code of Practice on Ethical Employment in Supply Chains, is a positive step towards using the Government's leverage to improve working conditions and prevent human trafficking and forced labour. Welsh public sector organisations, businesses involved in Welsh public sector supply chains and third sector organisations in receipt of public funds are expected to sign up to 12 commitments designed to eliminate modern slavery and support ethical employment practices in public sector supply chains. Voluntary commitments such as this should be considered an addition rather than an alternative to mandatory requirements, but can help define the Government's expectations of suppliers.

1. FLEX, 2018, *Seeing through transparency: a FLEX blueprint for worker-centred corporate accountability to prevent human trafficking for labour exploitation*. Available at: [www.labourexploitation.org/publications/seeing-through-transparency-flex-blueprint-worker-centred-corporate-accountability](http://www.labourexploitation.org/publications/seeing-through-transparency-flex-blueprint-worker-centred-corporate-accountability).

2. Sancroft, *Eliminating modern slavery in public procurement*, 2018. Available at: [sancroft.com/2018/03/22/the-sancroft-tussell-report-eliminating-modern-slavery-in-public-procurement](http://sancroft.com/2018/03/22/the-sancroft-tussell-report-eliminating-modern-slavery-in-public-procurement).

3. Modern Slavery Act Section 54 'Transparency in supply chains etc' introduces a modern slavery reporting requirement for companies with a turnover above an annual threshold of £36 million. See [www.legislation.gov.uk/ukpga/2015/30/section/54/enacted](http://www.legislation.gov.uk/ukpga/2015/30/section/54/enacted).